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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,905	07/04/2003	Michael Harville	200312252-2	7196

22879 7590 07/29/2010

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER	
BIAGINI, CHRISTOPHER D	

ART UNIT	PAPER NUMBER
2442	

NOTIFICATION DATE	DELIVERY MODE
07/29/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL HARVILLE, MICHELE COVELL, SUSIE WEE, JOHN ANKCORN, SUMIT ROY, and BO SHEN

Appeal 2009-006591
Application 10/613,905
Technology Center 2400

Before JAMES D. THOMAS, ST. JOHN COURTENAY, III, and JAMES R. HUGHES, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL[1]

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 through 24. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

The present invention relates to methodologies for managing a streaming media service.

Representative Claim

1. A method for managing a streaming media service, said method comprising:

receiving a request for a streaming media service from a client, said streaming media service comprising a plurality of media services components;

determining which media service component of said plurality of media services components to assign to a service node of a plurality of service nodes of a network;

informing each service node assigned to perform a media service component of said plurality of media services components, enabling said streaming media service to be performed on a streaming media; and

reassigning the determined media service component to a different service node selected from the plurality of services nodes while continuing to provide the streaming media to the client.

Prior Art and Examiner's Rejections

The examiner relies on the following references as evidence of unpatentability:

Lai 6,407,680 B1 June 18, 2002

Wei Tsang Ooi & Robbert van Renesse, *Distributing Media Transformation Over Multiple Media Gateways*: International Multimedia Conference, Proceedings of the 9th ACM International Conference on Multimedia, 159-168 (2001).

All claims on appeal, claims 1 through 24, stand rejected in the 35 U.S.C. § 103. As evidence of obviousness, the Examiner relies upon Lai and Ooi.

ANALYSIS

As noted at page 11 of the Appeal Brief, Appellants consider independent claim 1 as representative of all claims on appeal.

We refer to, rely on, and adopt the Examiner's findings and conclusions set forth in the Answer. Our discussion will be limited to the following points of emphasis.

The Appeal Brief does not contest the Examiner's correlations of the teachings of Lai to the corresponding features of receiving, determining, and informing in representative independent claim 1 on appeal. The view is taken by Appellants that the reassigning clause at the end of representative claim 1 on appeal is not taught by Ooi.

In this regard, Appellants take the position at pages 9 and 10 of the Appeal Brief that the Examiner has relied upon the incorrect Ooi reference as set forth by the Examiner in the final rejection. The Examiner responds to these views at page 9 of the Answer by indicating that the Ooi reference in question relied upon in the final Office action "was provided to the Office *by the Appellant* on January 25, 2005 along with an Information Disclosure Statement." This Examiner referred-to Ooi publication is properly identified

by the Examiner at the bottom of page 2 of the Answer and we have noted it earlier in this opinion as well. An additional, different Ooi reference, not relied on by the Examiner, was also listed in the notice of references cited to Appellants as a part of the final rejection.

To the extent Appellants take the position at pages 10 and 11 of the Appeal Brief that Lai and Ooi are not properly combinable within 35 U.S.C. § 103 and that the properly identified Ooi publication does not teach the disputed reassigning clause at the end of representative independent claim 1 on appeal, the Examiner properly states the following at page 10 of the answer:

> Ooi (that is, "Distributing Media Transformation Over Multiple Media Gateways" by Wei Tsang Ooi and Robbert van Renesse) teaches a system wherein a system of gateways (service nodes) on a network may be arranged to successively operate on a media stream. Each gateway performs an operation (media service component) on a stream before passing the stream to the next gateway. See section 1.1. Furthermore, the system can migrate an operation between gateways whenever it would be advantageous (see first paragraph of section 3.1 on page 162). Ooi describes the process by which this occurs in the first five full paragraphs on page 163. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Lai with the service component handoff taught by Ooi in order to adapt to network environment changes (see first paragraph under section 3.1 on page 162).

(Ans. 10.)

Notwithstanding these considerations about the teachings of Ooi, the summary of the invention of independent claim 1 at page 6 of the Appeal Brief refers to element 210 in figure 2 of the disclosed invention, as the basis of the reassigning clause of this claim. Specification page 3 indicates that figures 1 and 2 relate to conventional ways of delivering media to multiple

mobile client devices. The prior art approach in figure 1 is to have a content server directly deliver it to these client devices, whereas disclosed figure 2 utilizes an intermediate node 202 to perform this function. What is disputed about the correct Ooi publication appears to be admitted prior art anyway.

As a final matter, we note that no Reply Brief has been filed in this appeal to contest the Examiner's views in the responsive arguments portion of the Answer.

CONCLUSION AND DECISION

The Examiner's decision rejecting all claims on appeal under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528